IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 6678 of 1999

For Approval and Signature:

Hon'ble MISS JUSTICE R.M.DOSHIT

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

RAMESHCHANDRA SHAMJIBHAI RANIGA

Versus

STATE OF GUJARAT

Appearance:

MR JR NANAVATI for Petitioner No. 1

MR SP SEN AGP for Respondent Nos. 1 & 3

MR UI VYAS for Respondent No. 2

CORAM : MISS JUSTICE R.M.DOSHIT

Date of decision: 07/08/2001

ORAL JUDGEMENT

Heard the learned advocates.

Under order dated 23rd December, 1983 made by the Competent Authority, under the Urban Land [Ceiling &

Regulation] Act, 1976 [hereinafter referred to as, `the Act'], the petitioner's land to the extent of 563.19 sq.mtrs. was held to be `excess vacant land'. The appeal preferred before the Urban Land Tribunal was dismissed on 14th March, 1988. Pursuant to the said order, by Notification dated 22nd April, 1988 issued under section 10 (3) of the Act, published in the Official Gazette on 19th May, 1988, the said `excess vacant land' was vested in the State Government. Notice for handing over of the possession under section 10 (5) of the Act was issued on 23rd May, 1988 and 7th July, 1988. Pursuant to the said notice, the possession of the land was taken over on 7th July, 1988. Thereafter, the petitioner challenged the order of the Urban Land Tribunal before this Court in Special Civil Application No. 4465 of 1988. The said petition was dismissed on 19th January, 1991. It is the contention of the petitioner that feeling aggrieved by the said judgment and order dated 19th January, 1991, the petitioner had preferred Letters Patent Appeal [Stamp] No. 2570 of 1991, however, since the petitioner was not supplied copy of the order dated 19th January, 1991, he could not pursue the Letters Patent Appeal further. Since then, the Act has been repealed on and with effect from 30th March, 1999 under the Urban Land [Ceiling & Regulation] {Repeal} Act, 1999 [hereinafter referred to as, `the Repeal Act']. The petitioner has, therefore, preferred the present petition under Article 226 of the Constitution and has challenged the validity of the Repeal Act. Consequently, the petitioner has also prayed that the possession of the above referred `excess vacant land' be restored to the petitioner.

The question of validity of the Repeal Act has been decided by the Division Bench of this Court [Coram : Hon'ble M/s. Justice D.M Dharmadhikari, CJ & B.C Patel, J.] on 18th July, 2000. The challenge to the validity of the Repeal Act has been rejected and the matter has been ordered to be decided by the Bench of learned Single Judge on other issues. The only question in this petition being that of the validity of the Repeal Act, no further order is required to be made on this petition. The Repeal Act having been upheld and the possession of the `excess vacant land' having been admittedly taken over by the State Government, the said land cannot be restored to the petitioner. The petitioner at this belated stage cannot be heard to challenge the action of the Government of taking over of the possession of the `excess vacant land'. No other issue arises in this petition. Petition is dismissed. Rule is discharged.

[Ms. R.M Doshit, J.]

Prakash*